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Paper No. 14

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Cincinnati, OH 45224

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**JUN 19 2003**

**OFFICE OF PETITIONS**

In re Application of :  
Takashi Sako, et al. :  
Application No. 09/744,271 : **ON PETITION**  
Filed: January 22, 2001 :  
Attorney Docket No. AA33/VB :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 2, 2001, which set a shortened statutory period for reply of three(3) months. A two(2) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 3, 2001.

Petitioner submitted an amendment along with a Request for Continued Examination (RCE) with the present petition. The RCE is an improper filing since continued examination under 1.114 does not apply to an application unless prosecution is closed. However, the amendment will be considered under 37 CFR 1.111.

In view of this decision, the filing fees submitted with the improper RCEs (Request Continued Prosecution Applications) on December 14, 2001 and May 16, 2003, will be credited to petitioner's deposit account. Also, since the \$930.00 extension of time submitted with the petition on May 16, 2003 was subsequent to the maximum extendable period for reply, the extension of time is unnecessary and the fee will be credited to petitioner's deposit account.

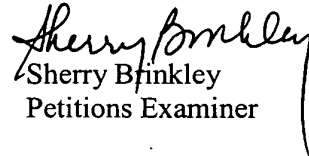
37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary and no fee is being charged.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1617.



Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



Sherry Brinkley  
Petitions Examiner